

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ERIC SCOTT FRAZIER,

Petitioner,

v.

CIVIL ACTION NO. 5:10-cv-00115

D. BERKEBILE,

Respondent.

**MEMORANDUM OPINION AND ORDER
ADOPTING PROPOSED FINDING AND RECOMMENDATION**

The Court has reviewed the Petitioner's *Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus By a Person in State or Federal Custody* (Document 1), wherein Petitioner seeks review of his eligibility for early release under the Residential Drug Abuse Treatment program. By *Standing Order* (Document 2) entered on February 3, 2010, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On June 28, 2012, the Magistrate Judge submitted *Proposed Findings and Recommendation* ("PF&R") (Document 3) wherein it is recommended that this Court dismiss the Petitioner's petition as moot and remove this matter from the Court's docket.


The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th

Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Objections to the PF&R were due by July 16, 2012. To date no party has filed any objections to the PF&R. As noted in the PF&R, Petitioner appears to have been released from custody on July 29, 2011. Inasmuch as Petitioner did not provide the Clerk's Office with a forwarding address, the PF&R sent to him on June 28, 2012 was returned as undeliverable (Document 4).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation* (Document 4). The Court **ORDERS** that Petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Document 1) be **DISMISSED** and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: July 18, 2012


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA